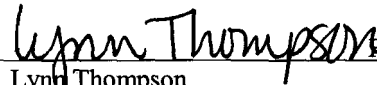


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Brian N. Tufte
Serial No.: 10/811,670
Filing Date: March 29, 2004
For: LIGHTING APPARATUS
Docket No.: 1076.1101110

Confirmation No.: 2974
Examiner: Ismael Negron
Group Art: 2875

REQUEST FOR REFUND UNDER 37 C.F.R. 1.26(b)

<p>Mail Stop 16 Director of the US Patent and Trademark Office PO Box 1450 Alexandria, VA 22313-1450</p>	<p>CERTIFICATE OF ELECTRONIC TRANSMISSION I hereby certify that this paper is being electronically transmitted to the United States Patent and Trademark Office on the date shown below.  Lynn Thompson February 21, 2007 Date</p>
--	--

Applicants have reviewed the charges of \$510.00 (2253) for this application which appear on the Deposit Account Statement dated November 2006 (copy attached). It appears that these charges were for a 3-Month Extension for response to an Office Action/Restriction and/or Election Requirement dated January 26, 2006 (copy attached). However, upon review of the January 26, 2006 Office Action/Restriction and/or Election Requirement, it is evident that the response to this action was timely filed. On the page immediately following the cover page of the Office Action it states:

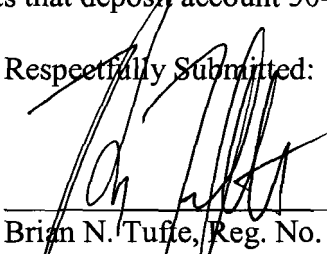
“A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.”

A response to this action was electronically filed on April 24, 2006, as evidenced by the attached Acknowledgement Receipt generated by the USPTO, clearly prior to the 3-month deadline of April 26, 2006.

Therefore, Applicant hereby requests that deposit account 50-0413 be credited in the amount of \$510.00.

Respectfully Submitted:

Dated: February 21, 2007



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Minneapolis, MN 55403-2402
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Facsimile: (612) 359-9349

11/17 370 11578224	1204.1133101	8021-OK	\$40.00	\$32,
11/17 411 10591063	1204.1128101	8021-OK	\$40.00	\$32,
11/17 2371 10591063	1204.1128101 <i>Do not charge</i>	1617	\$130.00	\$32,
11/17 2985 11569264	1204.1134101	1631 <i>900</i>	\$300.00	\$32,
11/17 2987 11569264	1204.1134101	1633 <i>OK</i>	\$200.00	\$32,
11/17 2986 11569264	1204.1134101	1642	\$400.00	\$31,
11/17 607 11569264	1204.1134101	8021-OK	\$40.00	\$31,
11/20 1041 10361063	1001.1640101	1253 <i>OK</i>	\$1,020.00	\$30,
11/20 1042 10361063	1001.1640101	1401	\$500.00	\$30,
11/20 3282 09957361	1001.1463101	1251 <i>OK</i>	\$120.00	\$29,
11/20 3283 09957361	1001.1463101	1402	\$500.00	\$29,
11/20 3319 10791008	1001.1765101	1251-OK	\$120.00	\$29,
11/21 1738 10766793	1001.1760101	1253 <i>OK</i>	\$1,020.00	\$28,
11/21 2014 11561811	H0012189-1161.1266101	1011	\$300.00	\$28,
11/21 2015 11561811	H0012189-1161.1266101	1111 <i>1,200</i>	\$500.00	\$27,
11/21 2016 11561811	H0012189-1161.1266101	1311 <i>OK</i>	\$200.00	\$27,
11/21 2017 11561811	H0012189-1161.1266101	1201	\$200.00	\$27,
11/21 289 11561811	1161.1266101	8021-OK	\$40.00	\$27,
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11/21 69 E-REPLENISHMENT		9203	-\$20,000.00	\$46,
<i>3 OK</i> 11/21 6 10811670	1001.1431101	1011	\$300.00	\$45, -
11/22 1300 11562266	H0013563-1100.1431101	1011 <i>1,000</i>	\$300.00	\$45,
11/22 1301 11562266	H0013563-1100.1431101	1111 <i>OK</i>	\$500.00	\$45,
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11/22 1437 10672483	H0006099(1100.1239101)	1801-OK	\$790.00	\$44,
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11/22 1619 10908998	H0007484-07601100.1285101	1202 <i>OK</i>	\$250.00	\$43,
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11/22 1686 11562318	H0012251-1161.1275101	1011 <i>OK</i>	\$300.00	\$43,
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11/22 1722 10647613	1001.1686101	1401-OK	\$500.00	\$41,
11/28 1768 10699727	1001.1426103	1801 <i>GMS</i>	\$790.00	\$40,
START BALANCE	SUM OF CHARGES	SUM OF REPLENISH	END BALANCE	
\$24,102.76	\$43,191.00	\$60,000.00	\$40,911.76	

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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,670	03/29/2004	Brian N. Tufte	1076.1101110	2974

7590

01/26/2006

Brian N. Tufte
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1221 Nicollet Avenue
Minneapolis, MN 55403

EXAMINER

NEGRON, ISMAEL

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/811,670

Applicant(s)

TUFTE, BRIAN N.

Examiner

Ismael Negron

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-17, drawn to rub-rail/bumper structure, classified in class 267, subclass 139.
- II. Claims 18-20, drawn to method for making a composition containing a phosphorescent material, classified in class 264, subclass 21.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, Invention I presents a rub-rail/bumper structure not having a light source, while Invention II presents a process of making a glow-in-the-dark material (i.e. phosphorescent material). The inventions are different not only because they define unrelated structures with different functions and modes of operation, but also because the process of Invention II could not be used to make the apparatus of Invention 1. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

3. Because these inventions are distinct for the reasons given above and the search required for Group I am not required for Group II, and vice versa, restriction for examination purposes as indicated is proper.

Art Unit: 2875

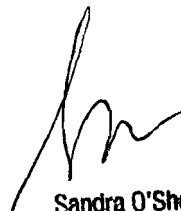
Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negron whose telephone number is (571) 272-2376. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached on (571) 272-2378. The facsimile machine number for the Art Group is (571) 273-8300.

5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://pair-direct.uspto.gov>. Should you have questions on access to Private PAIR system, contact the Electronic Business Center (EBC) toll-free at 866-217-9197.


Ismael Negron
Examiner
AU 2875


Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800

Acknowledgement Receipt

The USPTO has received your submission at **11:54:12** Eastern Time on **24-APR-2006**.

No fees have been paid for this submission. Please remember to pay any required fees on time to prevent abandonment of your application.

eFiled Application Information

EFS ID	1029112
Application Number	10811670
Confirmation Number	2974
Title	Lighting apparatus
First Named Inventor	Brian N. Tufte
	Brian N. Tufte Crompton, Seager & Tufte
Customer Number or Correspondence Address	Ste. 800 1221 Nicollet Avenue Minneapolis MN 55403 US 612-677-9050
Filed By	Brian N. Tufte/Lynn Thompson
Attorney Docket Number	1076.1101110
Filing Date	29-MAR-2004
Receipt Date	24-APR-2006
Application Type	Utility

Application Details

Submitted Files	Page Count	Document Description	File Size	Warnings
RRfiled4-24-06.pdf	6		38492 bytes	◆ PASS
		Document Description	Page Start	Page End
		Response to Election / Restriction Filed	1	1
		Claims	2	5
		Applicant Arguments/Remarks Made in an Amendment	6	6

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance

of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

If you need help:

- *Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail EBC@uspto.gov for specific questions about Patent e-Filing.*
- *Send general questions about USPTO programs to the [USPTO Contact Center \(UCC\)](#).*
- *If you experience technical difficulties or problems with this application, please report them via e-mail to [Electronic Business Support](#) or call 1 800-786-9199.*